

**REMARKS**

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-9 and 12 are presently pending in the present application. Claim 1 has been amended by way of the present Amendment. No new matter is introduced by this amendment. (See, e.g., page 8, lines 5-19, and page 10, line 4, through page 11, line 16, of the specification.)

In the Office Action, claims 1-9 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Birsan et al.* (U.S. Patent No. 6,848,078) in view of *Tuma et al.* (A Hands-on Approach to Teaching Basic OSI Reference Model).

Regarding the rejection under 35 U.S.C. §103(a), the Applicants respectfully request the withdrawal of the obviousness rejection for the reasons set forth below.

MPEP §2141 notes that the Patent Office bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. MPEP §2142 further notes that “[t]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical ‘person of ordinary skill in the art’ when the invention was unknown and just before it was made. .... Knowledge of applicant’s disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the “differences,” conduct the search and evaluate the “subject matter as a whole” of the invention. .... However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.”

The Applicants submit that the Office Action fails to establish a *prima facie* case of obviousness, since there is no evidentiary support for the conclusion that the features recited in the claims were known at the time of the present invention. Accordingly, the Applicants

request that such evidentiary support be placed on the record, or the obviousness rejection withdrawn.

Independent claim 1 recites a method for determining deviations of an end-system message of modular structure generated in a hierarchically-structured end system of a telecommunications device structured and based on an OSI reference model by comparison with a reference message comprising, among other features, the steps of displaying the whole message-structure of the reference message and the generated end-system message, **selecting an arbitrary structural unit of the reference message, selecting an arbitrary structural unit of the end-system message, determining deviations of the selected structural unit of the end-system message by comparison with the selected structural unit of the reference message** based on a structure and values for parameters of structural units, and **outputting of structural units of the selected part of the end-system message deviating from the reference message** indicating values of parameters of respective structural units of the selected structural unit of the end-system message generated in the end system. The Applicants submit that the applied references fail to disclose or suggest all of the recited limitations in claim 1.

The Applicants note that the Office Action acknowledges that *Birsan et al.* does not disclose a device that is structured and based on an OSI reference model, a message that contains information of different layers according to the OSI reference model, or a method that includes selecting a part of the generated end-system message. The Office Action cites *Tuma et al.* in order to supplement the deficiencies in *Birsan et al.*

*Birsan et al.* describes a software tool that allows a user to compare a base file containing XML statements to a modified file, and from the comparison to create a third file. The

comparison between the base file and modified file results in a comparison tree that contains, as nodes, all of the information in the base file as well as the differences located in the modified file. A user can then traverse the third data structure and select nodes of interest to create a new fourth data structure. (See Abstract, col. 1, lines 9-18, and col. 7, lines 29-36.)

As noted above, claim 1 of the present application recites **selecting an arbitrary structural unit of the reference message, selecting an arbitrary structural unit of the end-system message**, and then utilizing these selected structural units by **determining deviations of the selected structural unit of the end-system message by comparison with the selected structural unit of the reference message.** (See also, the non-limiting embodiment description on page 11, lines 11-16, of the present application and the use of term “then”.) To the contrary, *Birsan et al.* describes a comparison of an entire base file with an entire modified file, and the creation of a third file out of the base file and the modified file before, and then the selection of elements of the merged file afterwards. (See, e.g., column 8, lines 53-62, of *Birsan et al.* and the use of the terms “then”.) Thus, *Birsan et al.* does not disclose selection of structural units and then the comparison of the selected structural units. Furthermore, *Tuma et al.* fails to supplement this deficiency in the teachings of *Birsan et al.*

*Tuma et al.* describes an OSI reference model and messages; however, it does not discuss the selection of an arbitrary structural unit of such a message. Page 3, fifth paragraph, of *Tuma et al.* does not appear to disclose or even suggest such selection. Additionally, although *Birsan et al.* is cited for the determination of deviations, *Tuma et al.* does not suggest the selection of an arbitrary structural unit of such a message in the context of determining deviations, either when taken singularly or in combination with the teachings in *Birsan et al.*

Accordingly, the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the limitations recited in independent claim 1 of the present application. Thus, the Applicants respectfully request the withdrawal of the obviousness rejection of independent claim 1.

Claims 2-9 and 12 are considered allowable for the reasons advanced for independent claim 1 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of independent claim 1.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9957 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,  
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